

## FTB NOTICE

California Franchise Tax Board - Legal Branch



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### FTB NOTICE 97-5

**SUBJECT: REQUEST FOR PUBLIC COMMENT  
DISCUSSION DRAFT OF REGULATION SECTIONS 25128, 25128-1, 25128-2  
(EXTRACTIVE AND AGRICULTURE BUSINESS ACTIVITY)**

In FTB Notice 94-3, the Franchise Tax Board advised the public that the department intended to adopt a regulation under Revenue and Taxation Code Section 25128. Section 25128 generally provides for a double weighted sales for factor apportioning trades or businesses. However, if more than 50% of the gross business receipts from the apportioning trade or business is from certain qualified business activity, business income is apportioned using a single weighted sales factor. Among qualified businesses described are agricultural and extractive business activities.

Effective immediately, the Franchise Tax Board will make available a discussion draft of the following regulations accompanied by a brief explanation of their contents: Regulation Sections 25128, 25128-1 and 25128-2. As proposed, the discussion draft regulations seek to provide guidance regarding 1) the scope of activities which fall within the agricultural and extractive categories, 2) the effects of processing agricultural and extractive commodities into finished product and 3) the effects of transfers of commodities between members of a combined reporting group. Regulation Section 25128 is a general section; Regulation Section 25128-1 deals specifically with extractive business activity; and Regulation Section 25128-2 deals specifically with agricultural business activity.

The draft regulations are presented for discussion purposes only and is not to be considered part of the formal regulatory process.

The Board invites written comment from the public on the content of the regulations and encourages interested parties to identify and address all issues. Suggested amendments to the draft regulations would be helpful. For copies of the discussion draft regulations or for further information regarding this notice, contact Beverly Moore at the Franchise Tax Board Legal Branch, P.O. Box 1720, Sacramento, CA 95741-1720, (916) 845-3354. The draft is also available at website [www.ftb.ca.gov](http://www.ftb.ca.gov).

Written comments may also be addressed to Beverly Moore and should be submitted by October 15, 1997. If there is enough interest, the department also intends to hold a public meeting or symposium on these regulations prior to commencement of the formal hearing process for approval.